

UNITED STATES DISTRICT COURT

NORTHERN

DISTRICT OF

ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

KC

FILED

UNDER SEAL

JAN 30 2008

v.

MOHAMMAD SALEEM and
SAQIB SALEEMMICHAEL W. DOBBINS CRIMINAL COMPLAINT
CLERK, U.S. DISTRICT COURT

CASE NUMBER 08CR 0075

MAGISTRATE JUDGE DENLOW

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about June 1, 2007 in Cook County, in the Northern District of Illinois defendants,

did intentionally traffic and attempt to traffic in goods, namely, counterfeit pharmaceuticals, and in conjunction with the trafficking and attempted trafficking in said goods, did knowingly use the counterfeit mark of Pfizer Pharmaceuticals on said goods, which mark was registered on the principal register in the United States Patent and Trademark Office and were in use;

in violation of Title 18 United States Code, Section 2320.

I further state that I am a Special Agent with Immigration and Customs Enforcement and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT.

Continued on the attached sheet and made a part hereof: X Yes No



Jean B. Valentin, Complainant

Sworn to before me and subscribed in my presence,

January 30, 2008
Date

at Chicago, Illinois
City and State

U.S. Magistrate Judge Morton Denlow
Name & Title of Judicial Officer


Signature of Judicial Officer

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT

I, Jean B. Valentin, being duly sworn according to law, do depose and say as follows:

INTRODUCTION

1. I am a Special Agent of the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE") and have been so employed since March 2003. As a Special Agent of ICE, I have attended both the Criminal Investigator Training Program and Customs Basic Enforcement School at the Federal Law Enforcement Training Center in Glynco, Georgia. In addition, I have also attended On-Line Pharmaceutical Investigation Training provided by the ICE Cyber Crimes Center. As part of my regular duties, I investigate the transportation and delivery of adulterated or misbranded food, drugs and devices as well as the sale of counterfeit pharmaceuticals.

2. The information set forth in this affidavit is known to me through my own personal knowledge, observations, my review of consensually-recorded conversations, records and documents, as well as conversations with other law enforcement officers, including ICE Special Agents and Task Force Officers, employees of the Food and Drug Administration (FDA), and my experience and training as a Special Agent.

3. This affidavit is submitted for the limited purpose of establishing probable cause that, on or about June 1, 2007, MOHAMMAD SALEEM ("MOHAMMAD") and SAQIB SALEEM ("SAQIB") intentionally trafficked or attempted to traffic in goods, namely counterfeit Viagra, and knowingly use a counterfeit mark of Pfizer Pharmaceuticals ("Pfizer"), which mark

was registered on the principal register in the United States Patent and Trademark Office, and was in use, in violation of Title 18, United States Code, Section 2320.

BACKGROUND OF THE INVESTIGATION

4. On or about May 21, 2007, ICE agents met with a Confidential Informant (CI) who informed the agents that MOHAMMED JAVED ("JAVED"), who resides in Westbury, New York, is a distributor of counterfeit Viagra pills.¹ The CI stated that JAVED possibly receives the Viagra pills from Pakistan. The CI also stated that JAVED supplies MOHAMMAD, who resides in West Chester, Ohio, and that MOHAMMAD is looking for an individual in the Chicago metropolitan area interested in purchasing counterfeit Viagra at \$150 per bottle of 30 tablets. The CI was scheduled to meet with MOHAMMAD on the afternoon of May 21, 2007 to obtain a sample bottle to provide to prospective buyers.

5. On or about May 22, 2007, ICE agents met with the CI and obtained a bottle containing 30 tablets of allegedly counterfeit Viagra. Viagra is the brand name under which Pfizer sells sildenafil citrate. The allegedly counterfeit Viagra looks similar to genuine Viagra. Specifically, the size, shape, and color of the pills is similar to genuine Viagra. The materials in which the allegedly counterfeit Pfizer Viagra was packaged contain the Pfizer and Viagra brand names and state that the contents were made by Pfizer. The CI informed agents that MOHAMMAD stated that he sells bottles of Viagra for \$200 and that his wholesale cost is \$150. The CI said that MOHAMMAD told him that individuals interested in buying bulk from him can sell the Viagra at \$250 a bottle and make a \$50 profit. The CI said that MOHAMMAD told him that he receives the shipments from JAVED in New York. The CI told ICE that the shipments arrive via United States Postal Service (USPS) and are described as gifts.

¹ The government does not rely upon the statements of the CI for purposes of establishing probable cause. The statements of the CI are provided for background purposes only.

CONTROLLED PURCHASES FROM MOHAMMAD AND SALEEM

6. On or about June 1, 2007, a controlled buy of counterfeit Viagra was conducted between MOHAMMAD and his son SAQIB and ICE undercover agents (UCAs) at a Bally's Fitness Club parking lot located at 3220 Touhy Avenue, Skokie, Illinois. The UCAs were provided with digital recorders and body wires. The UCAs purchased 10 counterfeit Viagra bottles, each containing 30 tablets, from MOHAMMAD and SAQIB for \$200 per bottle. The pills were stamped with the letters "VGR" on one side and the word "Pfizer" on the other side. The letters "VGR" and the word "Pfizer" are stamped on genuine Viagra manufactured by Pfizer. The labels on the bottles contained the Viagra trademark and stated that the pills were made by Pfizer.

7. Before purchasing the ten bottles, the UCAs opened one of the bottles of counterfeit Viagra in the presence of MOHAMMAD and SAQIB. In a consensually video recorded conversation, the UCAs told MOHAMMAD and SAQIB that some of the pills were very light and did not look like real Viagra pills. The UCAs told MOHAMMAD and SAQIB that the pills were all different shades of blue, and that customers would realize the Viagra pills are fake because the color was not dark enough. The UCAs also told MOHAMMAD and SAQIB that there are two kinds of fake, one level you can detect and one you can pass as genuine with no problem. SAQIB asked the UCAs what color the UCAs needed the pills to be, the darker blue or the lighter blue. The UCAs showed MOHAMMAD and SAQIB one of the pills from the bottle that looked "more real," which was darker in color.

8. During that conversation, the UCAs also told MOHAMMAD and SAQIB that they would have difficulty selling the Viagra bottles because of their poor quality. The UCAs also pointed out to MOHAMMAD and SAQIB that the edges of the Viagra pills were white and

the blue coating could be easily scraped away. The UCAs told MOHAMMAD and SAQIB that the coating on the pills had to be thicker because the coating on real Viagra pills would not scratch off so easily. The UCAs then demonstrated this point by rubbing the edge of the pill, easily revealing the white undercoating on the pill with only a few scratches of a fingernail. The UCAs told MOHAMMAD and SAQIB it would take several scratches to achieve a similar effect on a "real" pill. The UCAs told MOHAMMAD and SAQIB that they need the quality of the pill to appear real or they could not sell the product.

9. MOHAMMAD and SAQIB had in their possession a total of 27 Viagra bottles and were willing to sell all the bottles to the UCAs, but the UCAs did not have enough currency to purchase all the drugs at that time. Later that evening, the UCAs met with MOHAMMAD and SAQIB again and purchased the remaining seventeen bottles. The Federal Express packaging that the counterfeit Viagra bottles were in identified the sender as Mr. Ali, residing in Karachi, Pakistan.

10. During the course of the controlled purchases, ICE and Food and Drug Administration ("FDA") agents conducted surveillance of the two individuals who sold pharmaceuticals to the UCAs. Following the surveillance, agents viewed known photographs of MOHAMMAD and SAQIB and recognize them as the same individuals who met with the UCAs on June 1, 2007. Additionally, as described below, UCAs engaged in additional controlled purchases of counterfeit pharmaceuticals from MOHAMMAD and SAQIB. On at least one occasion, to affect payment to MOHAMMAD and SAQIB, UCAs were instructed to wire payment to a bank account in the name of MOHAMMAD.

11. On or about June 12, 2007, ICE sent ten tablets from one of the bottles purchased from MOHAMMAD and SAQIB to the FDA for analysis. The FDA Forensic Chemistry Center

told ICE that the tablets contained 0.3 percent of the amount of sildenafil citrate in genuine Viagra. Sildenafil citrate is the active ingredient in Viagra, which is manufactured and sold by Pfizer. Pfizer owns a patent for sildenafil citrate and Viagra is a registered trademark of Pfizer. On or about June 1, 2007, Pfizer used the trademark "Viagra" to market and sell sildenafil citrate. In addition, the FDA said that the tablets were found to contain the anti-protozoal/anti-infective API metronidazole.

12. On or about October 25, 2007, at approximately 12:40 a.m., a controlled buy of Cialis was conducted between MOHAMMAD and SAQIB and the UCAs at the Holiday Inn located at 5300 Touhy Avenue, Skokie, Illinois. Cialis is the brand name for tadalafil, which is a pharmaceutical sold by Eli Lilly and Company ("Eli Lilly"), which holds the patent for tadalafil. Cialis is a registered trademark of Eli Lilly. The UCAs were provided with digital recorders and body wires. The UCAs paid MOHAMMAD and SAQIB \$9,300 in U.S. currency in exchange for 835 Cialis tablets, along with 227 empty inserts and boxes with which to package the Cialis tablets.

13. ICE sent samples of the Cialis tablets, inserts, and boxes obtained from MOHAMMAD and SAQIB to Eli Lilly for analysis. Eli Lilly informed ICE that the inserts and boxes were counterfeit. Eli Lilly also stated that although the tablets contain tadalafil, the active ingredient in Cialis, they are counterfeit.

14. On or about November 5, 2007, a controlled buy of counterfeit Cialis and Viagra was conducted between MOHAMMAD and SAQIB and the UCAs at the Tahoora pastry restaurant located at 2345 W. Devon Avenue, Chicago, Illinois. The UCAs were provided with digital recorders and body wires. The UCAs paid MOHAMMAD and SAQIB \$19,425 in U.S. currency in exchange for 270 blister packs of Cialis containing 10 tablets each and 61 bottles of

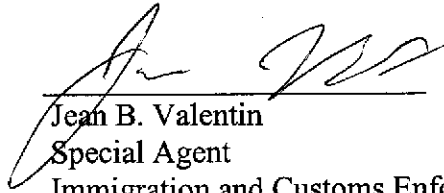
Viagra containing 30 tablets each. Eli Lilly tested samples of the Cialis purchased on November 5, 2007 and determined that the Cialis is counterfeit. The Viagra tablets and bottles purchased on November 5, 2007 appear to be counterfeit, and the lot number on the packaging matches the lot number on the packaging that Pfizer confirmed is counterfeit.

15. On or about November 29, 2007, a controlled buy of counterfeit Zyprexa and Plavix was conducted between MOHAMMAD and SAQIB and the UCAs at the Tahoeora pastry restaurant located at 2345 W. Devon Avenue, Chicago, Illinois. The UCAs were provided with digital recorders and body wires. The UCAs paid MOHAMMAD and SAQIB \$12,600 in U.S. currency in exchange for a package containing 693 Zyprexa tablets, 24 empty Zyprexa inserts/box; 672 Plavix tablets, 24 empty Plavix inserts/boxes, which was received at the ICE undercover mailbox in Hillside, Illinois, on November 21, 2007. Zyprexa is the brand name for olanzapine, which is a pharmaceutical sold by Eli Lilly, which holds the patent for olanzapine. Zyprexa is a registered trademark of Eli Lilly. Eli Lilly has told ICE that the lot number on the Zyprexa purchased from MOHAMMAD and SAQIB was the subject of a large scale recall in England and France for being counterfeit.


CONCLUSION

16. Based on the foregoing facts, Affiant respectfully submits there is probable cause that on or about June 1, 2007, MOHAMMAD SALEEM and SAQIB SALEEM intentionally trafficked or attempted to traffic in goods, namely counterfeit Viagra, and knowingly use a counterfeit mark of Pfizer Pharmaceuticals, which mark was registered on the principal register in the United States Patent and Trademark Office, and was in use, in violation of Title 18, United States Code, Section 2320.

FURTHER AFFIANT SAYETH NOT.


Jean B. Valentin
Special Agent
Immigration and Customs Enforcement

SUBSCRIBED and SWORN to before me
this 30th day of January, 2008


MORTON DENLOW
United States Magistrate Judge